

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

LITTLE D. CONWAY,

Plaintiff,

vs.

AUSTIN PEAY STATE UNIVERSITY,

Defendant.

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No. 06-1043-T/An

ORDER TRANSFERRING CASE PURSUANT TO 28 U.S.C. § 1406(a)

Plaintiff Little D. Conway, a resident of Clarksville, Tennessee, filed a pro se complaint, along with an application to proceed in forma pauperis. Because this case is being transferred, the issue of the filing fee will be left to the transferee court.

Twenty-eight U.S.C. § 1391(b) authorizes the commencement of a civil action only in a judicial district

(1) where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred . . . , or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.

This claim arises from action taken by the defendant in Clarksville, Tennessee. The defendant is located in Clarksville, Tennessee. Clarksville is in Montgomery County, which is in the Nashville Division of the Middle District of Tennessee. 28 U.S.C. § 123(b)(1). Accordingly, the complaint asserts no basis for venue in this district.

Twenty-eight U.S.C. § 1406(a) states:

The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

It is in the interest of justice for this case to be transferred rather than dismissed. This action should have been brought in the Nashville Division of the Middle District of Tennessee.

Therefore, it is hereby ORDERED, pursuant to 28 U.S.C. § 1406(a), that this case is TRANSFERRED, forthwith, to the Nashville Division of the Middle District of Tennessee.

IT IS SO ORDERED this 2nd day of March, 2006.

S/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE